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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,347	10/02/2001	Roger F. Lay	770P009746US	2635

2512 7590 11/18/2003

PERMAN & GREEN
425 POST ROAD
FAIRFIELD, CT 06824

EXAMINER

CHOI, STEPHEN

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 11/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/889,347	Applicant(s) LAY ET AL.	
	Examiner Stephen Choi	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I, Species A in Paper No. 8 is acknowledged. The traversal is found persuasive. The restriction requirement made in Paper No. 7 is hereby withdrawn.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 18, "said first electronic controls" lacks positive antecedent basis.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1, 7-8, 10, and 16-17 are rejected under 35 U.S.C. 102(a) as being anticipated by Applicant's Admitted Prior Art (hereafter AAPA).

AAPA discloses all the recited steps and elements of the invention including a housing, means to select a first selected length of sealing tape to be dispensed, means to dispense the first selected length of sealing tape, and electronic means (pages 1-2 of

Art Unit: 3724

the specification and Figure 2). Regarding claims 7 and 16, the claims do not preclude a first selected length being equal to a second selected length. Thus, AAPA discloses means to automatically dispense a second selected length as set forth in claims 7 and 16.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-3, 5-6, 11-12, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Hayashi et al. (US 4,266,276).

Regarding claims 2-3 and 11-12, AAPA discloses the invention substantially as claimed except for means mounted on an idler wheel shaft to measure rotation of the idler wheel shaft and to output a signal to the electronic means representative of rotation of the idler wheel shaft comprising an optical encoder. Hayashi teaches the use of an encoder mounted on a non-driven roller independently of a driven roller to accurately measure the material traveled distance as old and well known in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of AAPA with means on a non-driven roller for measuring the length of the material independently from the rotation of a driving device as taught by Hayashi in order to improve means for measuring a selected length being dispensed. Regarding claims 5-6 and 14-15, AAPA fails to disclose means to

Art Unit: 3724

automatically correct for errors in length of the first selected length and electronic memory including correction lengths as a function of selected lengths. Hayashi also teaches means to automatically correct for errors in length of the first selected length (43) and electronic memory including correction lengths (N) as a function of selected lengths (L_0). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ such means for correcting errors as taught by Hayashi in order to provide means for automatically correcting errors.

8. Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Laciak et al. (US 4,143,566).

AAPA discloses the invention substantially as claimed except for the means for double or halve length of the first selected length also doubles or halves an increment of sealing tape length. Laciak discloses means for feeding the length of the material based on the feed length of the previous operating cycle together with any adjustment made. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ such teachings of Laciak on the means to double or halve length of the selected length of AAPA in order to provide means for repeating the feed length with any adjustment made to improve selection of the desired operation.

9. Claims 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA.

AAPA discloses the invention substantially as claimed except for remote second electronic controls operatively connected to the first electronic controls. However, it would have been obvious to one having ordinary skill in the art at the time the invention

Art Unit: 3724


was made to employ remote second electronic controls since the use of remote electronic controls is old and well known in the art for the purpose of controlling a plurality of devices remotely.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Choi whose telephone number is 703-306-4523. The examiner can normally be reached on Monday thru Friday between 9am and 5pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

SC
November 17, 2003


**STEPHEN CHOI
PRIMARY EXAMINER**